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Note 9

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denied 83 S.Ct. 39, 371 U.S. 821, 9 L.Ed.2d 61.

10. — Judicial review

Decision of Director of Central Intelligence Agency to terminate employee was subject to judicial review of constitutional claims. *Webster v. Doe*, Dist.Col. 1988, 108 S.Ct. 2047, 486 U.S. 592, 100 L.Ed.2d 632, on remand 859 F.2d 241.

11. Persons entitled to maintain action

The "bears upon" language of Mitchell decision pertaining to standing to sue, as a test for determining judicially cognizable injury to a congressional interest such as impeachment, appropriations and general lawmaking, could not support claim of standing by United States congressman to seek declaratory judgment that Central Intelligence Agency has engaged in foreign and domestic activities in excess of its statutory authority, in the absence of allegation of concrete injury, whether actual or threatened. *Harrington v. Bush*, 1977, 553 F.2d 190, 180 U.S.App.D.C. 45.

12. Discovery and inspection

District court has latitude to control any discovery process which may be instituted against Central Intelligence Agency for violation of constitutional rights in connection with discharge of

individual employee so as to balance discharged employee's need for access to proof which would support colorable constitutional claim against extraordinary needs of CIA for confidentiality and protection of its methods, sources, and mission. *Webster v. Doe*, Dist.Col. 1988, 108 S.Ct. 2047, 100 L.Ed.2d 632, on remand 859 F.2d 241.

Congressman, religious and political organization, journalists, academics, and politically active individuals, who challenged Executive Order No. 12333 set out as a note under section 401 of this title establishing framework for governmental and military intelligence-gathering functions, were not entitled to discovery to uncover evidence to support their claims pursuant to broad "motion" for production of documents, which requested production of all documents describing manner in which federal intelligence agencies would carry out responsibilities under order and relating to which plaintiffs had been or would be "targeted" and what information on them had been developed, where such request was "fishing expedition" and plaintiffs had failed to request reasonable, more limited discovery. *United Presbyterian Church in U.S.A. v. Reagan*, D.C.D.C.1982, 557 F.Supp. 61, affirmed 738 F.2d 1375, 238 U.S.App.D.C. 229.

§ 403-1. Intelligence Community Staff; appointment of Director

(1) If a commissioned officer of the Armed Forces is appointed as Director of the Intelligence Community Staff, such commissioned officer, while serving in such position—

(A) shall not be subject to supervision, control, restriction, or prohibition by the Department of Defense or any component thereof; and

(B) shall not exercise, by reason of his status as a commissioned officer, any supervision, control, powers, or functions (other than as authorized as Director of the Intelligence Community Staff) with respect to any of the military or civilian personnel thereof.

(2) Except as provided in subsection (1), the appointment of a commissioned officer of the Armed Forces to the position of Director of the Intelligence Community Staff, his acceptance of such appointment and his service in such position shall in no way affect

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U.S. 821, 9 individual employee so as to balance discharged employee's need for access to proof which would support colorable constitutional claim against extraordinary needs of CIA for confidentiality and protection of its methods, sources, and mission. Webster v. Doe, Dist.Col. 1988, 108 S.Ct. 2047, 100 L.Ed.2d 632, on remand 859 F.2d 241.

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Community Staff; appointment of Director

officer of the Armed Forces is appointed as Intelligence Community Staff, such commissioned such position—

subject to supervision, control, restriction, or Department of Defense or any component

wise, by reason of his status as a commissioned officer, supervision, control, powers, or functions authorized as Director of the Intelligence Community Staff, his acceptance of such position shall in no way affect

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his status, position, rank, or grade in the Armed Forces, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, position, rank, or grade. Any such commissioned officer, while serving in the position of Director of the Intelligence Community Staff, shall continue to hold a rank and grade not lower than that in which he was serving at the time of his appointment to such position and to receive the military pay and allowances (including retired or retainer pay) payable to a commissioned officer of his grade and length of service for which the appropriate military department shall be reimbursed from any funds available to defray the expenses of the Intelligence Community Staff. In addition to any pay or allowance payable under the preceding sentence, such commissioned officer shall be paid by the Intelligence Community Staff, from funds available to defray the expenses of such staff, an annual compensation at a rate equal to the excess of the rate of compensation payable for such position over the annual rate of his military pay (including retired and retainer pay) and allowances.

(3) Any commissioned officer to which subsection (1) applies, during the period of his service as Director of the Intelligence Community Staff, shall not be counted against the numbers and percentages of commissioned officers of the rank and grade of such officer authorized for the Armed Force of which he is a member, except that only one commissioned officer of the Armed Forces occupying the position of Director of Central Intelligence or Deputy Director of Central Intelligence as provided for in section 403 of this title or the position of Director of the Intelligence Community Staff, under this section, shall be exempt from such numbers and percentage at any one time.

(July 26, 1947, c. 343, Title I, § 102a, as added Dec. 9, 1983, Pub.L. 98-215, Title IV § 403, 97 Stat. 1477).

LIBRARY REFERENCES

American Digest System

Authority to create and staff executive departments, see United States § 30 to 33.
Powers of the executive in national emergency, see War and National Emergency § 37.

Encyclopedias

Authority to create and staff executive departments, see C.J.S. United States §§ 31 to 33.
Powers of the executive in national emergency, see C.J.S. War and National Defense § 45.

WESTLAW ELECTRONIC RESEARCH

United States cases: 393k[add key number].
War and national emergency cases: 402k[add key number].
See, also, WESTLAW guide following the Explanation pages of this volume.

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